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State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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Mine file

October 4, 1994

CERTIFIED RETURN RECEIPT REQUESTED
P 074 976 226

Thomas E. Ehmett, Acting Director
Office of Surface Mining
Albuquerque Field Office
Reclamation and Enforcement
505 Marquette N.W., Suite 1200
Albuquerque, New Mexico 87102

Re: Response to Ten-Day Notice X94-020-352-004 TV1, Sunnyside Refuse and Slurry, Sunnyside Cogeneration Associates, ACT/007/035, Folder #5, Carbon County, Utah

Dear Mr. Ehmett:

This letter responds to the above-referenced Ten-Day Notice ("TDN"), the certified copy of which was received at the Division office on September 28, 1994.

Part 1 of 1 reads: "Above-named company has not filed the required OSM-1 coal production and reclamation fee report, and therefore, is in violation of Section 402 (c) of Public Law 95-87, Surface Mining Control and Reclamation Act of 1977." Regulation cited: None.

Remarks: Issue Notice of Violation which required the company to file OSM-1 forms.

The Division contacted Brian Burnett, authorized representative of Sunnyside Cogeneration Associates ("SCA") on September 23, 1994. On that date, Mr. Burnett stated he had just received the OSM-1 forms that day. Since that date, the forms have been completed and submitted to the appropriate OSM office. I will include copies when they are available.



Page 2

Thomas E. Ehmett
ACT/007/035
October 4, 1994

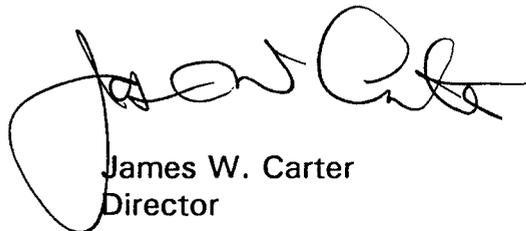
This situation has been resolved. The Division requests that the Office of Surface Mining ("OSM") find this response to the Ten-Day Notice ("TDN") X94-020-352-004 TV1 appropriate.

I am concerned that the Albuquerque Field Office ("AFO") felt that a TDN was the appropriate vehicle to use in this case. OSM did not conduct an inspection prior to issuance of the TDN, and I hope this particular TDN does not signal a trend where requests for information or the status of Division enforcement activities are packaged in the form of a TDN. You will recall that the Division had earlier commenced and concluded several enforcement actions against SCA regarding the payment and documentation of AML fees.

It is my understanding that the OSM work group responsible for tracking quarterly reports has a mechanism for tracking and obtaining the necessary production reports that involves neither the states nor OSM field offices. Using the enforcement clout of either of our agencies to obtain reports is akin to pursuing a fly with a howitzer. If I am mistaken in my understanding that OSM has other means for acquiring reports, I would like to discuss this with you at a future quarterly oversight meeting.

Since a TDN is a written statement that the Secretary "has reason to believe that a condition, practice, or violation exists...of the state program", I believe OSM must cite the provision of the state program which is alleged to have been violated.

Very truly yours,



James W. Carter
Director

vb

cc: L. Braxton
J. Helfrich
P. Grubaugh-Littig
PFO

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

- Print your name, address and ZIP Code in the space below.
- Complete items 1, 2, 3, and 4 on the reverse.
 - Attach to front of article if space permits, otherwise affix to back of article.
 - Endorse article "Return Receipt Requested" adjacent to number.



PENALTY FOR PRIVATE USE, \$300

RETURN TO



Print Sender's name, address, and ZIP Code in the space below.

STATE OF UTAH
 NATURAL RESOURCES
 OIL, GAS, & MINING
 3 TRIAD CENTER, SUITE 350
 SALT LAKE CITY, UTAH 84180-1203



DOGM VB ACT/007/035 TDN 94-020-352-004 #5

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.
 Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. 2. Restricted Delivery (Extra charge)

3. Article Addressed to:
 THOMAS E EHMETT ACTING DIR
 OFFICE OF SURFACE MINING
 ALBUQUERQUE FIELD OFFICE R & E
 505 MARQUETTE NW STE 1200
 ALBUQUERQUE NM 87102

4. Article Number
 P 074 976 226

Type of Service:
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Address
 X *T.M. Bowerna*

6. Signature - Agent
 X

7. Date of Delivery

8. Addressee's Address (ONLY if requested and fee paid)

PS Form 3811, Mar. 1988 * U.S.G.P.O. 1988-212-865 DOMESTIC RETURN RECEIPT

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier. (no extra charge)
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends. If space permits, otherwise, affix to back of article. Endorse front of article RETURN RECEIPT REQUESTED adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse RESTRICTED DELIVERY on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
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PS Form 3800, June 1985

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 NO INSURANCE COVERAGE PROVIDED
 NOT FOR INTERNATIONAL MAIL
 (See Reverse)

THOMAS E EHMETT ACT DIR
 Sent to AFO-OSM-R&E

Street and No. 505 MARQUETTE NW STE 1200
 P.O. State and Zip Code ALBUQUERQUE NM 87102

Postage \$ 29
 Certified Fee 1
 Special Delivery Fee
 Restricted Delivery Fee

Return Receipt showing to whom and Date Delivered 135
 Return Receipt showing to whom Date, and Address of Delivery 264

TOTAL Postage and Fees 264
 Postmark or Date

P 074 976 226

DOGM VB ACT/007/035 TDN 94-020-352-004 #5